

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
W 1000 ft. from Berryman's Lane * ZONING COMMISSIONER
on N/S Nicodemus Road * OF BALTIMORE COUNTY
1000 Nicodemus Road *
4th Election District * Case No. 91-420-A
3rd Councilmanic District *
Andrew I. David *
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests, pursuant to the Petition for a Zoning Variance, a variance from Section 1A03.4.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a 97.91 ft. diametral dimension in lieu of the required 300 ft.; and a variance from Section 1A04.4.4 to allow sideyards of 20 ft. and 12.91 ft. in lieu of the required 50 ft., as more particularly described on Petitioner's Exhibit No. 1.

The Petitioner appeared and testified. Appearing as a Protestant was George C.H. Schauer mann.

Testimony indicated that the subject property, known as 1000 Nicodemus Road consists of 2.10 acres +/-, zoned R.C.4 and is currently vacant.

The Petitioner testified that he purchased the subject property approximately 2 months prior for the purpose of constructing a single family dwelling thereon.

Testimony and evidence indicated that the subject lot is quite deep running from Nicodemus Road, but is only 97.91 ft. in width for its entire length.

ORDER RECEIVED FOR FILING
Date July 15, 1991
By Mr. David

The Petitioner testified that, unless the requested relief is granted, he will be unable to construct a home which is compatible with the dwellings currently existing in the surrounding community. He further testified that should the requested relief be denied, he would suffer an undue hardship and practical difficulty.

George, C.H. Schauer mann testified that he currently owns the adjoining property lying to the east of the subject site which is currently vacant. He testified, as indicated on Protestant's Exhibit No. 1, that in December of 1967, the Baltimore Gas and Electric Company condemned a 50 ft. strip of his property running the length of its eastern boundary line for future use in conjunction with the existing power line. Mr. Schauer mann's concern is that when he eventually elects to construct his home on the property, he will necessarily be required to locate his property outside of the 50 ft. B.G. and E. strip, thereby moving the home closer to the common boundary line with Petitioner's property. He testified he was concerned that the two proposed homes would be uncharacteristically close together compared to the other homes constructed in this rural community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation

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tion than that applied for would give substantial relief; and

- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

Clearly, as indicated on Petitioner's Exhibit No. 1, the subject lot is only 97.91 ft. in width and cannot accommodate the minimum 300 ft. diametral dimension as required by Section 1A03.4.3 of the B.C.Z.R. However, the solution to the Petitioner's problem is not necessarily placing the proposed home within 12 ft. +/- of the Protestant's property line. Clearly, the Petitioner can construct a home which is compatible with the surrounding community while observing a setback which does not thrust a hardship onto the Protestant, Mr. Schauer mann. Therefore, the Petitioner's relief shall be granted in part and denied in part.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted in part. The Petitioner may construct a home on this property, but he will be required to place the home in a fashion that maintains a minimum setback of 30 ft. from the boundary line between his property and Mr. Schauer mann's property. In view of the above, it has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the

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variances requested, if granted in part, will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 16th day of July, 1991 that, pursuant to Petition for Zoning Variance, a variance from Section 1A03.4.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a 97.91 ft. diametral dimension in lieu of the required 300 ft. is hereby granted; and,

IT IS FURTHER ORDERED that a variance from Section 1A03.4.4 to allow a sideyard setback of 20 ft. on the western property line of the subject property is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 1A03.4.4 to allow a side yard setback of 12.91 ft. from the eastern boundary line of the subject property is hereby DENIED, and,

IT IS FURTHER ORDERED that a variance to allow a 30 ft. sideyard setback from the eastern boundary line of the subject property, in lieu of the required 50 ft., in accordance with Petitioner's Exhibit No. 1, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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By Mr. David

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2. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:mmn
cc: Peoples Counsel

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

July 15, 1991

Mr. Andrew I. David
P.O. Box 316
Randallstown, Maryland 21133

RE: Petition for Zoning Variance
Case No. 91-420-A

Dear Mr. David:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted in part, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmn
encl.
cc: Peoples Counsel

ORDER RECEIVED FOR FILING
Date July 15, 1991
By Mr. David

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PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-420-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1A03.4.3 to allow a 97.91 foot diametral dimension in lieu of the required 300 feet; section 1A03.4.4 to allow sideyards of 20 feet and 12.91 feet in lieu of the required 50 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

1. The ownership of this parcel was established December 7, 1946
2. The seller has no additional land contiguous to this parcel to comply with zoning regulation.
3. There is no building envelope because of the width of the existing parcel.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	(Type or Print Name)
Signature	Signature
Address	(Type or Print Name)
City and State	Signature
Attorney for Petitioner:	P.O. Box 216 823-5060
(Type or Print Name)	Address
Signature	LANOUSTON, MD. 21133
Address	City and State
City and State	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Attorney's Telephone No.:	Name
	Address
	Phone No.

ORDER RECEIVED FOR FILING

ORDERED By The Zoning Commissioner of Baltimore County, this 15th day of MAY, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 25th day of JUNE, 1991 at 9 o'clock PM.

ESTIMATED LENGTH OF HEARING (1/2HR.) + 1HR.

REVIEWED BY: J. Robert Haines (over)

DATE: 4-17-91

M. & H. DEVELOPMENT ENGINEERS, INC.

200 EAST JOPPA ROAD
ROOM 101, SHELL BUILDING
TOWSON, MARYLAND 21204

MARCH 11, 1991

DESCRIPTION FOR VARIANCE OF
PROPERTY LOCATED IN BALTIMORE COUNTY
AT #1000 NICODEMUS ROAD

Beginning for the same at a point 1080 feet westerly measured from the intersection formed by Berryman's Lane and Nicodemus Road; thence N 53° 17' 49" W, 107.49 feet, thence N 12° 20' 11" E, 927.00 feet, thence S 65° 56' 10" E, 100 feet, thence S 12° 20' 11" W, 951.03 feet to the PLACE OF BEGINNING.

Containing 2.10 acres more or less.

By Deed reference Liber 1597, Folio 434.

Malcolm E. Hudkins
MALCOLM E. HUDKINS
REGISTERED SURVEYOR #5095

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 111 Date of Posting: June 25, 1991
 Posted for: Andrew I. David
 Petitioner: Andrew I. David
 Location of property: 111 W. Chesapeake Avenue, Towson, Maryland 21204
 Location of Sign: 111 W. Chesapeake Avenue, Towson, Maryland 21204
 Remarks: None
 Posted by: Signature Date of return: June 25, 1991
 Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 24, 1991
 THIS IS TO CERTIFY, that the annexed advertisement was published in OWINGS MILLS TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 23, 1991.

OWINGS MILLS TIMES,

S. Zake Nelson
 Publisher

348 - \$66.34

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 24, 1991
 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 23, 1991.

THE JEFFERSONIAN,

S. Zake Nelson
 Publisher

348 - \$66.34

receipt

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number:

Date: 4/17/91 H9130399

	QTY	PRICE
PUBLIC HEARING FEES	01	\$35.00
010 - ZONING VARIANCE (VRL)	01	\$35.00
TOTAL:		\$35.00

LAST NAME OF OWNER: DAVID

04A0440077WICHROA \$35.00

Please Make Checks Payable To: Baltimore County 0010:27A04-17-91

Cashier Validation:

receipt

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number:

Date: 9/1/91

348 - \$66.34

Please Make Checks Payable To: Baltimore County

Cashier Validation:

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 6/3/91

Andrew I. David
P. O. Box 316
Randallstown, Maryland 21133

RE:
Case Number: 91-420-A
W 1080' from Berryman Lane on N/S Nicodemus Road
1000 Nicodemus Road
4th Election District - 3rd Councilmanic
Petitioner(s): Andrew I. David
HEARING: TUESDAY, JUNE 25, 1991 at 9:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 91.34 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

J. Robert Haines

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

May 13, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-420-A
W 1080' from Berryman Lane on N/S Nicodemus Road
1000 Nicodemus Road
4th Election District - 3rd Councilmanic
Petitioner(s): Andrew I. David
HEARING: TUESDAY, JUNE 25, 1991 at 9:00 a.m.

Variance: to allow a 97.91 ft. diametral dimension in lieu of the required 300 ft.; to allow sideyards of 20 ft. and 12.91 ft. in lieu of the required 50 ft.

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Andrew I. David

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

June 3, 1991

Mr. Andrew I. David
P.O. Box 316
Randallstown, MD 21133

RE: Item No. 399, Case No. 91-420-A
Petitioner: Andrew I. David
Petition for Zoning Variance

Dear Mr. David:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
 JAMES E. DYER
 Chairman
 Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this
1st day of May, 1991.

J. Robert Haines
 J. ROBERT HAINES
 ZONING COMMISSIONER

Received By:

James E. Dyer
 Chairman,
 Zoning Plans Advisory Committee

Petitioner: White Marsh Joint Venture

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
 INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: May 10, 1991

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Frank A. Cirincione, Item No. 385
 Stanley Z. Steinberg, Item No. 392
 John D. Ferencik, Item No. 396
 Andrew F. David, Item No. 399
 Richard J. Romano, Item No. 400
 White Marsh Joint Venture, Item No. 401 ✓
 Francis T. Leyden, Item No. 402
 Charles A. Romano, Item No. 404
 Dale J. Lohman, Item No. 405
 T & O Partnership, Item No. 407
 Westview Mall Association, Item No. 408
 George Bromwell, Item No. 409
 Hawley Rodgers, Item No. 412
 Joseph Ruzza, Item No. 415
 Ronald L. Norman, Item No. 418
 Victor Khouzami, Item No. 422

In reference to the Petitioners' request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

VARIEDIT.EMS/ZAC1

received
5/22/91

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: May 30, 1991

TO: Mr. J. Robert Haines
Zoning Commissioner

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: April 30, 1991

This office has no comments for items number 385, 392, 393, 394, 395, 396, 398, 399, 400, 401, 402 and 404.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJF/lvd

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-1500

MAY 1, 1991

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: WHITE MARSH JOINT VENTURE

Location: SOUTHFIELD AT WHITEMARSH

Item No.: 401 Zoning Agenda: APRIL 30, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

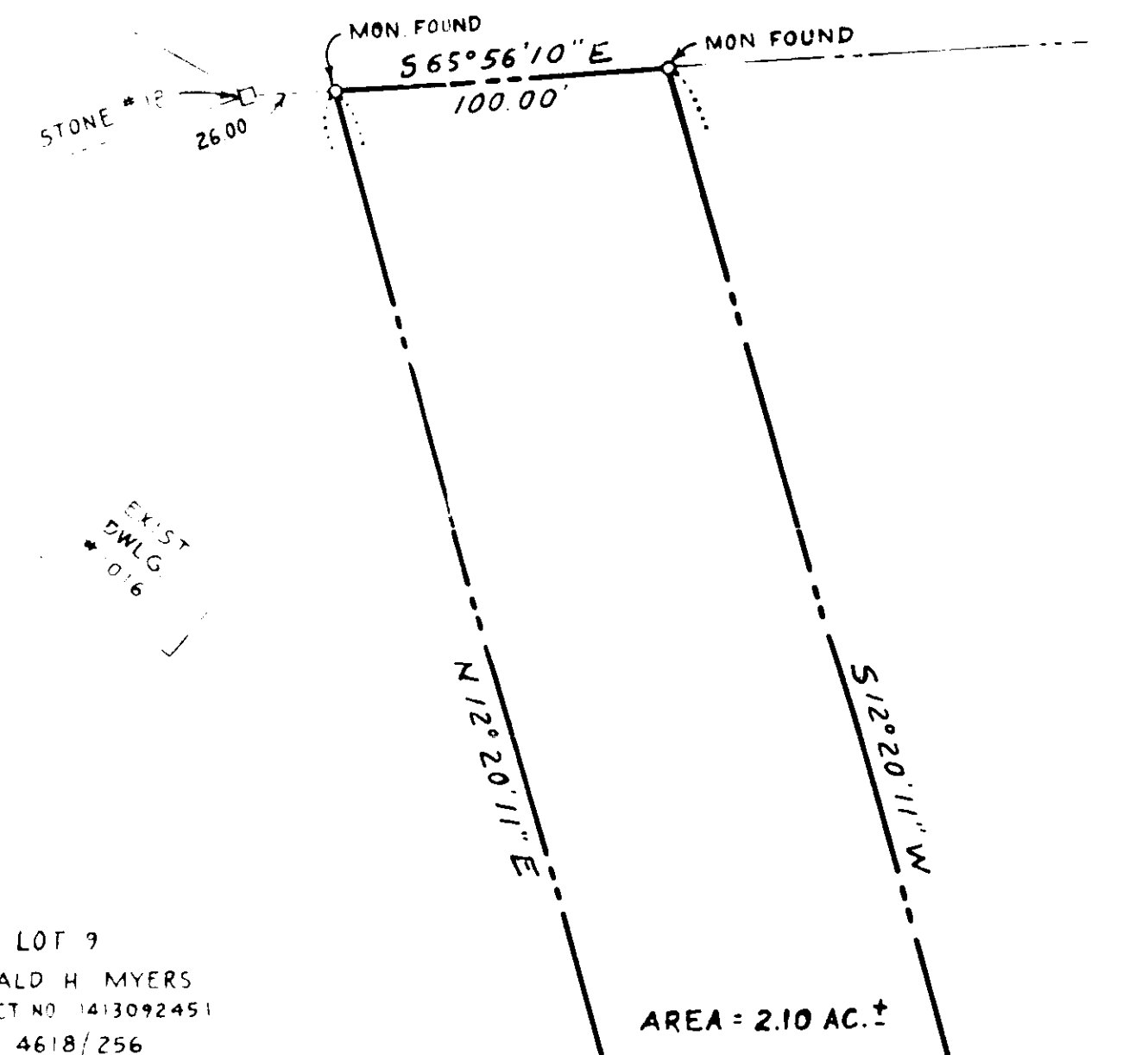
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation. PROPOSED ISLAND AT END OF TURNMILL COURT SHALL HAVE 35 FEET INSIDE RADIUS FOR FIRE APPARATUS ACCESS. ALSO ISLAND SHALL BE POSTED WITH FIRE LANE SIGNS

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

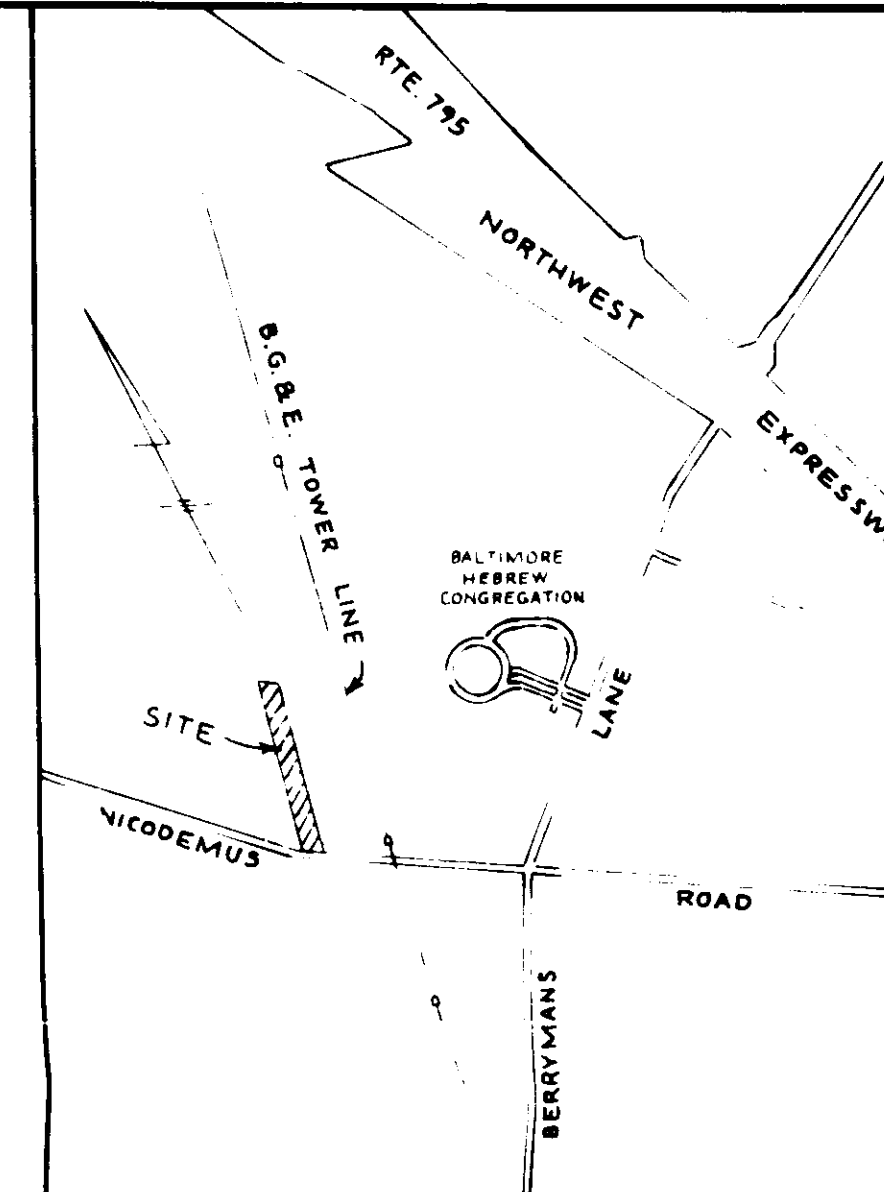
REVIEWER: *Noted and Approved*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

THE OHES SHALOM CONGREGATION
TAX ACCT NO 0415031500
4649/110



LOT 9
GERALD H. MYERS
TAX ACCT NO 041302451
4618/256



VICINITY MAP
SCALE: 1"=1000'

GENERAL NOTES:
COUNCILMANIC DISTRICT 3
CONSUS TRACT 4048
PRESENT USE: VACANT
PROPOSED USE: SINGLE FAMILY DWLG.
EXISTING ZONING: RC-4
PROPOSED ZONING: RC-4
PUBLIC WATER & SEWER: NOT AVAILABLE
NO. OF PARKING SPACES REQUIRED: 2
NO. OF PARKING SPACES PROPOSED: 2
AREA WOODED
NO STREAMS
NOT IN CHESAPEAKE BAY CRITICAL AREA
100' SCALE ZONING MAP, N.W. 14-K

PETITIONER'S
EXHIBIT 1

SITE LEGEND
PROPERTY BOUNDARY LINE
BUILDING ENVELOPE
EXISTING BUILDINGS
PARKING SPACES

NOTE: THIS PROPERTY HAS NO PREVIOUS ZONING CASES.

- VARIANCE REQUEST FROM SECTION 1A03.4-3. TO ALLOW A 97.91' FOOT DIAMETRAL DIMENSION IN LIEU OF THE REQUIRED 300 FEET.
- VARIANCE REQUEST FROM SECTION 1A03.4-4. TO ALLOW SIDEYARDS OF 20' AND 12.91' IN LIEU OF THE REQUIRED 50'.

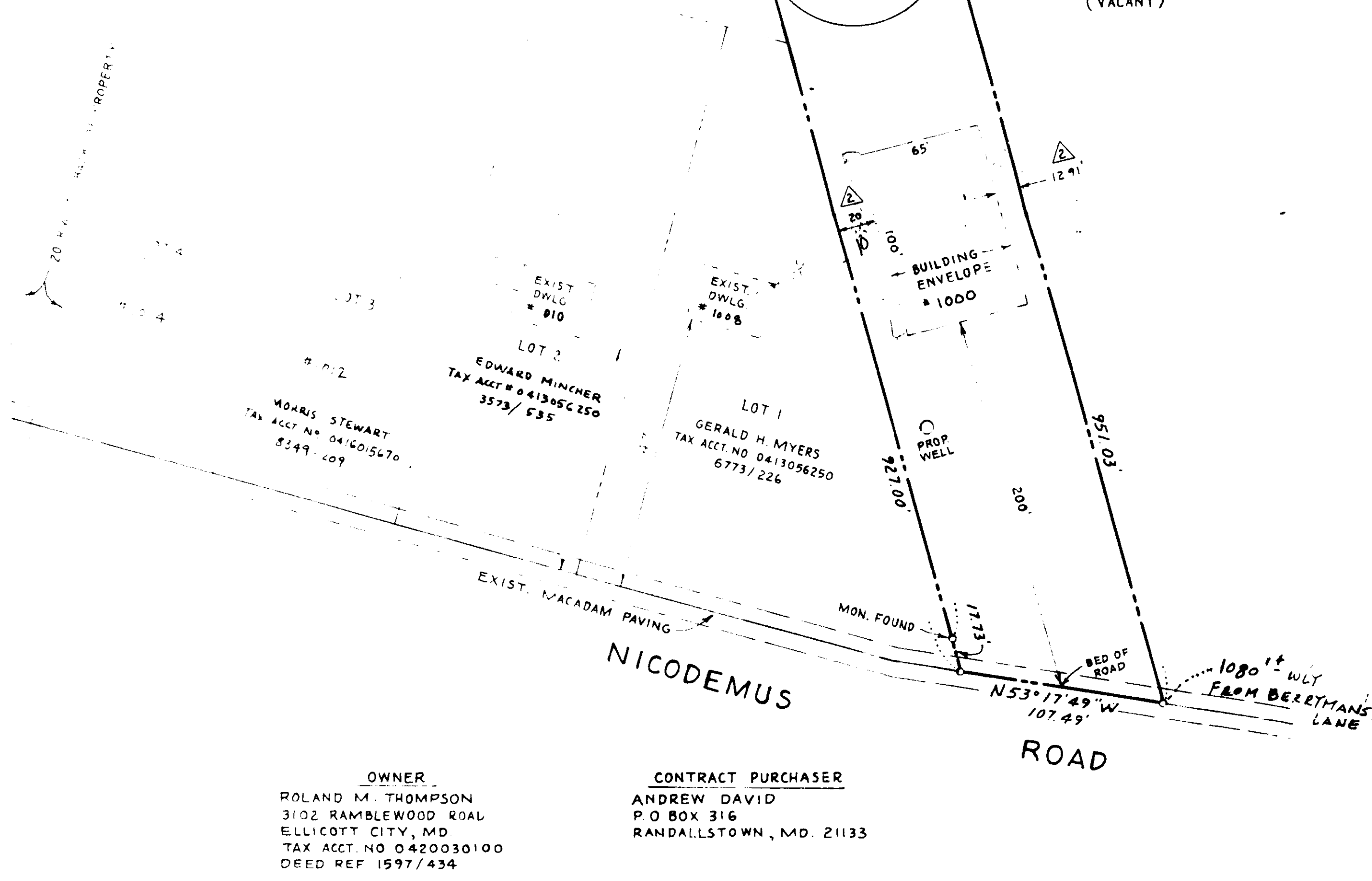
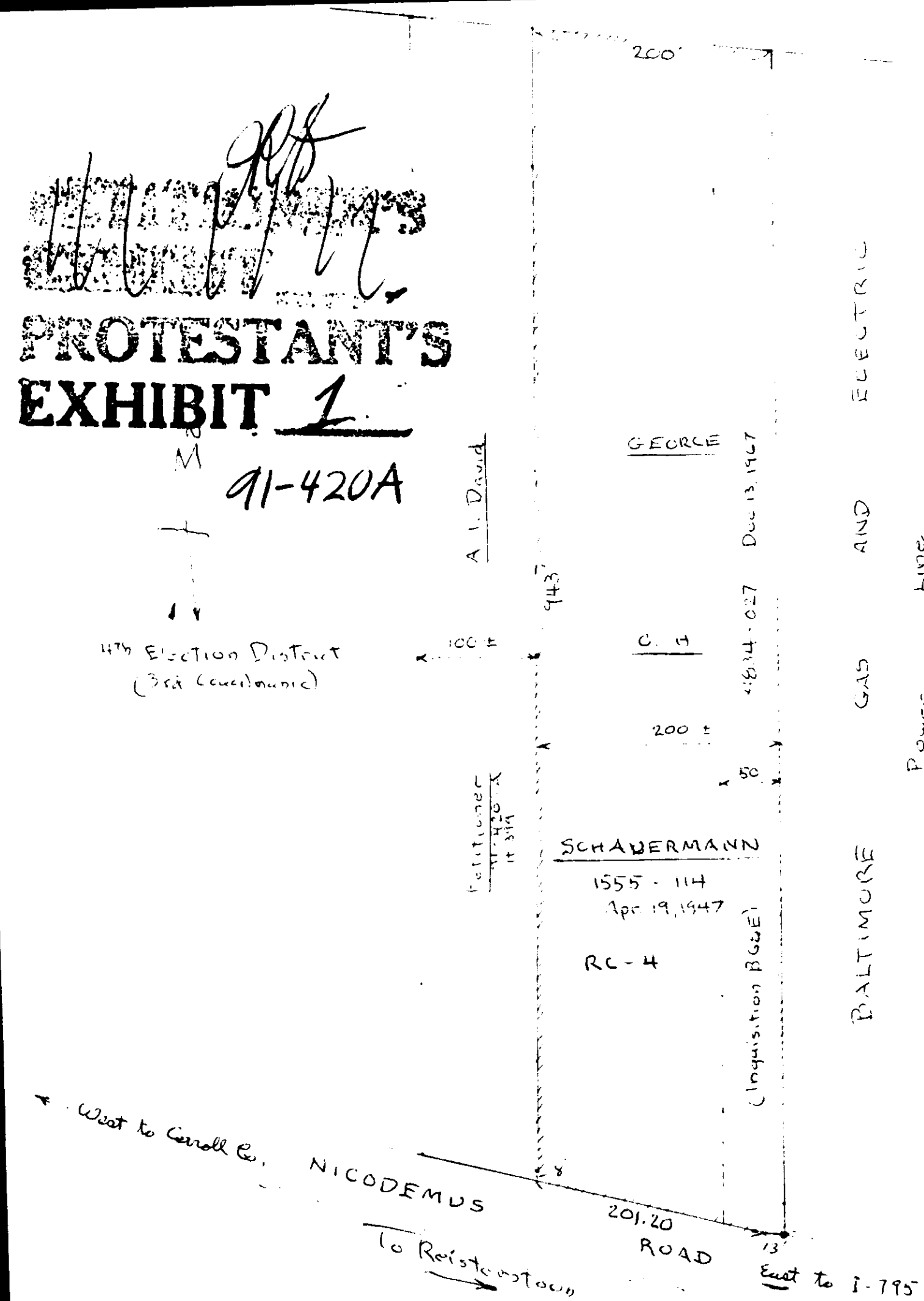
91-420-A

VARIANCE PLAT
#1000 NICODEMUS RD.
BALTIMORE COUNTY, MD. ELECTION DISTRICT NO 4
SCALE: 1"=50' DATE: MAR. 11, 1991
JOB NO 91-7121

M. & H. DEVELOPMENT ENGINEERS, INC.
200 EAST JOPPA ROAD
ROOM 101, SHELL BUILDING
TOWSON MARYLAND 21204
(301) 828-9060

OWNER
ROLAND M. THOMPSON
3102 RAMBLEWOOD ROAD
ELLCOTT CITY, MD
TAX ACCT. NO 0420030100
DEED REF 1597/434

CONTRACT PURCHASER
ANDREW DAVID
P.O. BOX 316
RANDALLSTOWN, MD. 21133



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: April 26, 1991

FROM: Dennis A. Kennedy, P.E.

RE: Zoning Advisory Committee Meeting for April 30, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 385, 392, 393, 396, 398, 399, 400, 401, 402, 403 and 404.

For Items 347 (Case #91-374-A), 394 and 395, the previous County Review Group Meeting comments are still applicable.

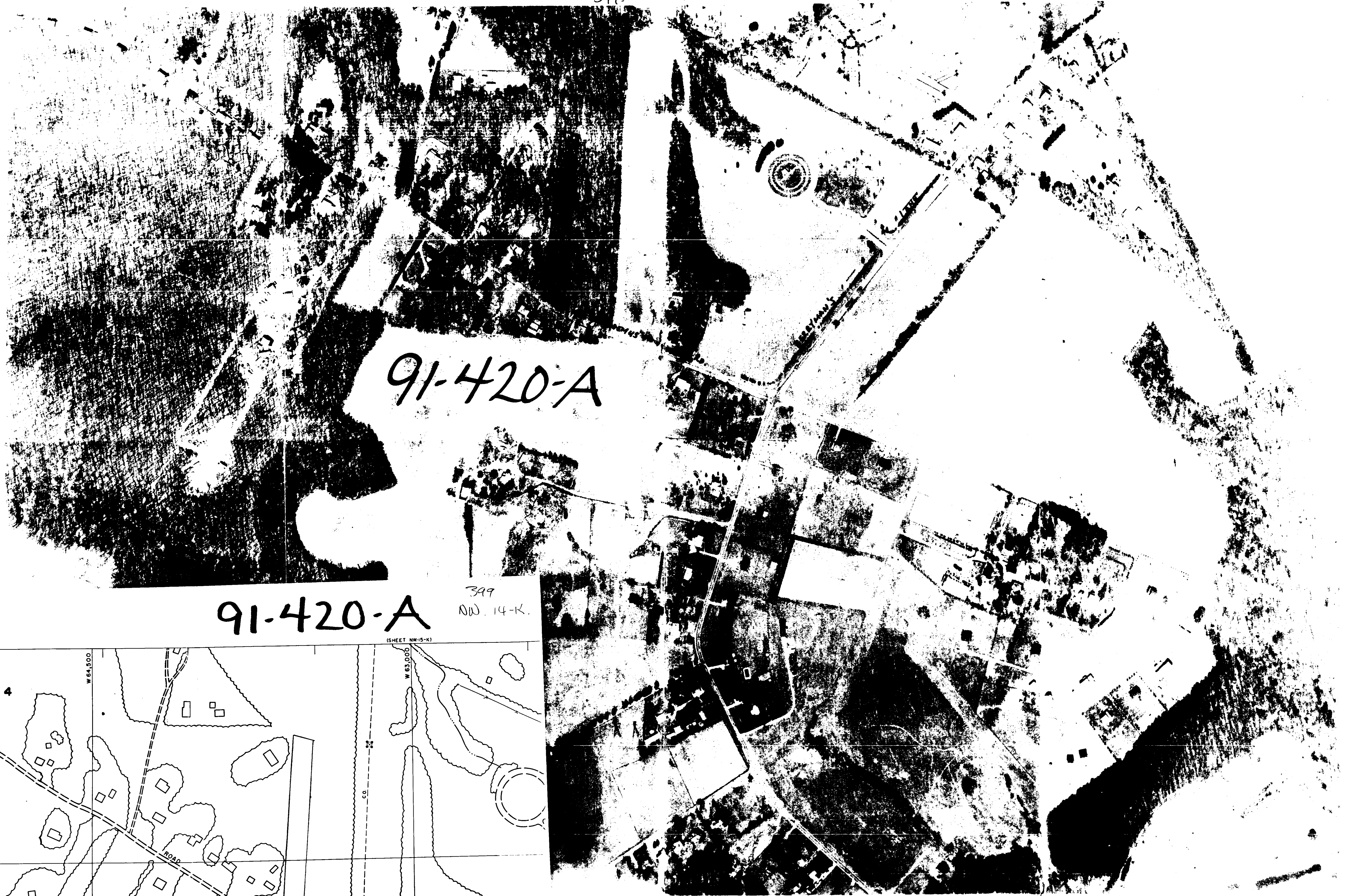
For Item 397, a revised County Review Group Meeting is required.

For Item 398, a County Review Group Meeting is required.

Dennis A. Kennedy
Dennis A. Kennedy, P.E., Acting Chief,
Developers Engineering Division

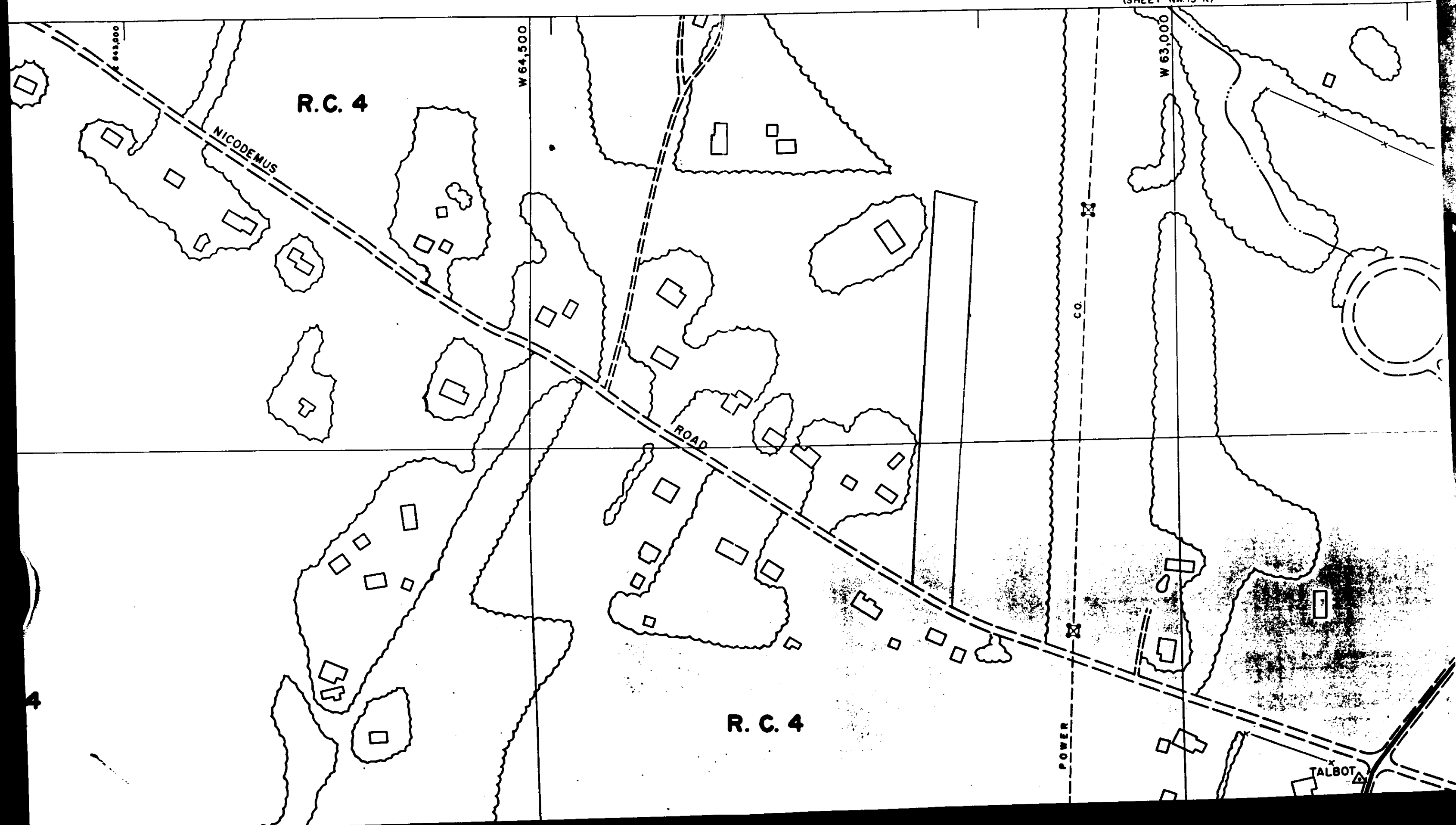
DAK:s

received
6/19/91



91-420-A

399
NW 14-K



BALTIMORE COUNTY
OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

DATE
OF
PHOTOGRAPHY
JANUARY
1986